

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

ANDRE R. JOHNSON

Plaintiff,

v.

THE KROGER CO.,

Defendant.

Civil Action

File No. _____

Removed from State Court of
Fulton County, Civil Action File
No. 23EV004834

JURY TRIAL DEMANDED

DEFENDANT THE KROGER CO.'S NOTICE OF REMOVAL

COMES NOW, Defendant The Kroger Co. (“Defendant”), by and through the undersigned counsel, and hereby files this Notice of Removal, showing the Court as follows:

1.

On August 8, 2023, this action was filed in the State Court of Fulton County, Georgia, said county being a part of the Northern District of Georgia. See N.D.G.A. Local Rule 3.1(A), LR App. A, I. As such, the Atlanta Division of the United States District Court for the Northern District of Georgia is the proper venue for removal in this instance, as set forth further below.

2.

The action is a civil action for alleged professional malpractice, and the United States District Court for the Northern District of Georgia has jurisdiction by reason of the diversity of citizenship of the parties, and the amount in controversy.

3.

The amount of damages in dispute exceeds the statutory amount in controversy of \$75,000.00, exclusive of interest and costs, as the Plaintiff demanded, in writing, a sum of nine-hundred fifty-thousand dollars (\$950,000.00) to resolve Plaintiff's claims against The Kroger Co. (See Exhibit A, Plaintiff's Demand.)

4.

(a) At the time of the commencement of this action in the State Court of Fulton County, Plaintiff Andre R. Johnson was and is now a citizen of Georgia.

(b) At the time of the commencement of this action, Defendant Kroger was and is still now a foreign corporation, organized and existing under the laws of the State of Ohio with its principal place of business in Ohio, and is thus a citizen of Ohio.

5.

A true and correct copy of all process, pleadings, and orders served upon Defendant in this action are attached hereto as Exhibit B.

6.

The instant Notice of Removal is timely filed pursuant to and in accordance with 28 U.S.C. § 1446(c)(1) within thirty (30) days after the receipt by Defendant's counsel of Plaintiff's Summons and Complaint, attached as part of Exhibit B.

7.

Furthermore, the instant Notice of Removal is timely filed pursuant to and in accordance with 28 U.S.C. § 1446(c)(1) within one (1) year of the commencement of the action.

8.

Accordingly, this action, over which the United States District Court for the Northern District of Georgia has original jurisdiction under 28 U.S.C. § 1332, is removable to the United States District Court for the Northern District of Georgia pursuant to 28 U.S.C. § 1441.

9.

Venue is proper in the Atlanta Division of the United States District Court for the Northern District of Georgia pursuant to 28 U.S.C. §§ 1391 and 1441, and N.D.G.A. Local Rule 3.1(B)(1)(a). Specifically, Plaintiff's Complaint was filed in the Superior Court of Fulton County, which is part of the Atlanta Division. See N.D.G.A. Local Rule 3.1(A), LR App. A, I.

10.

As required by 28 U.S.C. § 1446(d), Defendant shall give written notice hereof to all adverse parties and shall file a copy of this Notice of Removal with the Clerk of the State Court of Cobb County.

WHEREFORE, Defendant The Kroger Co. requests that this action proceed in this Court as an action properly removed thereto.

Respectfully submitted this 8th day of September, 2023.

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/s/ **Marc Hood**
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Marc Hood
Georgia State Bar No.: 490821
Counsel for Defendant The Kroger Co.

CERTIFICATE OF SERVICE AND OF COMPLIANCE WITH L.R. 5.1

This is to certify that on this date, the undersigned filed a true and correct copy of the foregoing pleading with the Clerk of Court using the CM/ECF system and served all parties of record via electronic service through the CM/ECF system to:

Paul I. Hotchkiss, Esq.
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Counsel for Plaintiff

Further, this is to certify that the foregoing pleading complies with the font and point selections approved by the Court in Local Rule 5.1. It is prepared in Times New Roman 14-point font.

Dated this 8th day of September, 2023.

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